

**APPROVAL**

## RESOLUTION NO. A-\_\_\_\_\_

1 WHEREAS, on April 27, 2004 Sampson Construction Company on behalf of  
2 Berean Fundamental Church of Lincoln, Nebraska, hereinafter appellant, applied for a  
3 building permit to construct a 30,325 sq. ft. new structure on the church property  
4 located at 6400 S. 70th Street; and

5 WHEREAS, on April 27, 2004 Sampson Construction Company submitted on  
6 behalf of the appellant a request for an impact fee determination for the new structure  
7 identified as Impact Permit No. IF0406982 for Building Permit No. B0401392; and

8 WHEREAS, the Impact Fee Administrator determined that the only impact fees  
9 due for this project were arterial street impact fees and the Impact Fee Administrator  
10 calculated said impact fees in the amount of \$19,529.30 using the Arterial Street Impact  
11 Fees Schedule beginning January 1, 2004 for church use (\$644.00 per 1,000 sq. ft.);  
12 and

13 WHEREAS, on June 25, 2004 Building Permit No. B0401352 was issued and  
14 the \$19,529.30 of impact fees were paid to and received by the Department of Building  
15 and Safety; and

16 WHEREAS, on July 21, 2004 the appellant filed its Notice of Appeal appealing  
17 the impact fee determination and requesting an exemption from said fees; and

18 WHEREAS, the City Council finds that there are unusual circumstances of the  
19 development which demonstrate that the application of the fee to the development  
20 would be unfair or unjust.

1           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
2 Lincoln, Nebraska:

3           That the requirement of the Lincoln Municipal Code § 27.82.050(c)(4) or §  
4 27.82.050(c)(5) relating to the imposition of impact fees in the amount of \$19,529.30 for  
5 the construction of the 30,325 sq. ft. building on the church property is hereby waived.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2004:

\_\_\_\_\_  
Mayor

**DENIAL**

## RESOLUTION NO. A-\_\_\_\_\_

1 WHEREAS, on April 27, 2004 Sampson Construction Company on behalf of  
2 Berean Fundamental Church of Lincoln, Nebraska, hereinafter appellant, applied for a  
3 building permit to construct a 30,325 sq. ft. new structure on the church property  
4 located at 6400 S. 70th Street; and

5 WHEREAS, on April 27, 2004 Sampson Construction Company submitted on  
6 behalf of the appellant a request for an impact fee determination for the new structure  
7 identified as Impact Permit No. IF0406982 for Building Permit No. B0401392; and

8 WHEREAS, the Impact Fee Administrator determined that the only impact fees  
9 due for this project were arterial street impact fees and the Impact Fee Administrator  
10 calculated said impact fees in the amount of \$19,529.30 using the Arterial Street Impact  
11 Fees Schedule beginning January 1, 2004 for church use (\$644.00 per 1,000 sq. ft.);  
12 and

13 WHEREAS, on June 25, 2004 Building Permit No. B0401352 was issued and  
14 the \$19,529.30 of impact fees were paid to and received by the Department of Building  
15 and Safety; and

16 WHEREAS, on July 21, 2004 the appellant filed its Notice of Appeal appealing  
17 the impact fee determination and requesting an exemption from said fees; and

18 WHEREAS, appellant failed to timely request an exemption from arterial street  
19 impact fees pursuant to Lincoln Municipal Code § 27.82.060(c) as the exemption was  
20 not applied for on or before the date the application for the building permit was made;

1 and

2 WHEREAS, the appellant failed to timely appeal from the May 4, 2004  
3 determination pursuant to Lincoln Municipal Code § 27.82.110(i) as the appeal was not  
4 filed with the City Clerk within 10 days after the May 4, 2004 determination; and

5 WHEREAS, the City Council finds that the impact fee was correctly calculated  
6 and that there are no unusual circumstances of the development which demonstrate  
7 that the application of the fee to the development would be unfair or unjust as the  
8 requested waiver does not meet any of the stipulations or conditions required for  
9 reduction in or exemption from arterial street impact fees and that appellant is not  
10 exempt from pay impact fees under Nebraska law as the fees, if determined to be a tax,  
11 are not a property tax.

12 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
13 Lincoln, Nebraska:

14 That the July 21, 2004 Appeal from the Impact Fees Determination (Impact Permit  
15 No. IF0406982) is hereby denied for the following reasons:

- 16 1. The request for exemption was not timely applied for;
- 17 2. The Notice of Appeal was not timely filed;
- 18 3. The requested exemption does not meet any of the stipulations or  
19 conditions required for reduction or exemption from arterial street impact fees; and
- 20 4. The arterial street impact fees were properly calculated.

Introduced by:

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Approved as to Form & Legality:

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City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2004:

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Mayor